

COURT OF APPEAL OF STATE OF CALIFORNIA
FOURTH APPELLATE DISTRICT
DIVISION ONE

July 23, 2001

D037488 Fernandez v. Fioretti et al.

The appeal is dismissed.

D038332 Malcolm v. The Superior Court of San Diego County/Gorfine

The petition is denied.

**D038212 Sejour Development Corporation v. The Superior Court of San Diego
County/Manque National De Paris**

The petition is denied.

D038341 Parker v. The Superior Court of San Diego County/The People

The petition is denied.

D038172 In re Abreu on Habeas Corpus

The petition is denied.

D036244 Desmet et al. v. Gallo et al.

The petition for rehearing is denied.

D036244 Desmet et al. v. Gallo et al.

It is ordered that the opinion filed on June 21, 2001, is modified.

The order is reversed as to Desmet's trespass, malicious prosecution and abuse of process causes of action, and the court is directed to grant the motion as to those causes of action. The order is affirmed as to Desmet's invasion of privacy cause of action and the matter remanded for further proceedings on that claim, and for determination of the amount of reasonable attorney fees and costs to be awarded Cesare. The parties shall otherwise bear their own costs on appeal. This modification changes the judgment.

D038145 In re the Marriage of Ralen and Cortellacci

Pursuant to California Rules of Court, rule 19(c), the appeal filed June 8, 2001, is dismissed for appellant's failure to timely designate the record (Cal. Rules of Court, rules 4(a) and 5(a)).

**D036995 Resources Warehousing and Consolidation Services of California, Inc., et al. v. Tow
et al.**

As to Pyramid, the judgment is reversed. As to Resources, the judgment is affirmed. Each party is to bear its own costs on appeal. O'Rourke, J.; We Concur: Huffman, Acting P.J., McIntyre, J.

**D037704 Rosa B. v. Superior Court of San Diego County/San Diego County Health and
Human Services Agency**

The petition is denied. McIntyre, J.; We Concur: Kremer, P.J., Huffman, J.

COURT OF APPEAL OF STATE OF CALIFORNIA
FOURTH APPELLATE DISTRICT
DIVISION ONE

July 23, 2001 (Continued)

D033406 Tabert et al. v. Jacquet/Beaumont

The judgment is affirmed. The Taberts's appeal is dismissed as moot. The Taberts are awarded costs of appeal from Dr. Jacquet. Dr. Beaumont is awarded costs of appeal from the Taberts. Haller, J.; We Concur: Kremer, P.J., McIntyre, J.

D037556 Cal Malibu, Inc., et al. v. Quality Sports, Inc., et al.

D037557 Cal Malibu v. Quality Sports

The orders are affirmed. Cal Malibu's motion for sanctions on appeal is denied. Respondents are entitled to costs on appeal. McDonald, J.; We Concur: Kremer, P.J., Benke, J.

D037537 Crosby v. Sterling

The judgment is affirmed. O'Rourke, J.; We Concur: Huffman, Acting P.J., McIntyre, J.

D034809 Opdycke v. Shumate et al.

The judgment in favor of Shumate is reversed. The judgment in favor of Vista Grande is affirmed. Douglas shall recover his costs of appeal from Shumate, and Vista Grande shall recover its costs from Douglas. Benke, Acting P.J.; We Concur: Nares, J., McDonald, J.

D034974 People v. Harbour

The Judgment is affirmed. Huffman, J.; We Concur: Benke, Acting P.J., McIntyre, J.

D037407 In re Dominique Z., a Juvenile

The order is affirmed. McDonald, J.; We Concur: Kremer, P.J., McIntyre, J.

D036615 Oregel v. American Isuzu Motors, Inc.,

The opinion filed June 25, 2001, is ordered certified for publication.

COURT OF APPEAL OF STATE OF CALIFORNIA
FOURTH APPELLATE DISTRICT
DIVISION ONE

July 24, 2001

D035139 Bratcher v. Buckner

The order is affirmed and remanded with instructions to modify the sale order in conformity with section 704.780 and consistent with this opinion. CERTIFIED FOR PUBLICATION. Nares, J.;
We Concur: Benke, Acting P. J., Huffman, J.

D036879 In re Trust of Louise D. Brooks

Order reversed. Costs on appeal to Beck. Haller, J.; We Concur: Benke, Acting P.J., Nares, J.

D035801 People v. Brown

The judgment is affirmed. Kremer, P.J.; We Concur: Huffman, J., O'Rourke, J.

D037221 In re Joshua H., a Juvenile

The judgment is affirmed. Kremer, P.J.; We Concur: Benke, J., McIntyre, J.

**D038196 Golden Eagle Insurance Company v. The Superior Court of San Diego County/First
Financial Insurance Company**

At the request of petitioner, the petition for writ of mandate filed June 25, 2001, is dismissed. The stay issued on June 27, 2001, is vacated.

D038262 In re Jones on Habeas Corpus

The petition is denied.

D038271 In re Brown on Habeas Corpus

The petition is denied.

D038281 In re Fredericks on Habeas Corpus

The petition is denied.

D034614 Wilson, a Minor, etc. v. County of San Diego et al.

The judgments are affirmed. Nares, J.; We Concur: Benke, Acting P.J., Huffman, J.

D036375 People v. Scull

D036918 In re Scull on Habeas Corpus

(Consolidated) The judgment is affirmed; the petition is denied. Kremer, P.J.; We Concur: Benke, J., Haller, J.

D037535 Medix Ambulance Service v. City of Orange

The judgment is affirmed. Each party shall bear its own costs on appeal. McDonald, J.;
We Concur: Benke, Acting P.J., Nares, J.

D036893 People v. Nitsch

Judgment affirmed as modified. Huffman, J.; We Concur: Kremer, P.J., O'Rourke, J.

COURT OF APPEAL OF STATE OF CALIFORNIA
FOURTH APPELLATE DISTRICT
DIVISION ONE

July 24, 2001 (Continued)

D037043 People v. Cruz

Judgment affirmed. Huffman, J.; We Concur: Kremer, P.J., O'Rourke, J.

D035799 People v. Trac

The petition for rehearing denied.

D037138 McMorrow v. Vlahos et al.

The appeal is dismissed as to David A. Fogg.

D035588 People v. Ojeda

The petition for rehearing is denied.

D037944 Zaremba v. Zaremba

The appeal is dismissed as abandoned.

D038268 In re Davey on Habeas Corpus

The petition is denied.

D037607 In re Kariann H., a Juvenile

The judgment is affirmed. Nares, J.; We Concur: Kremer, P.J., O'Rourke, J.

D037517 In re Alexis Z., a Juvenile

The judgment is affirmed. McDonald, J.; We Concur: Kremer, P.J., Haller, J.

D036537 People v. Olivo

Judgment affirmed. Kremer, P.J.; We Concur: Huffman, J., O'Rourke, J.

D038379 Suleiman v. Superior Court of San Diego County/People

The petition is denied.

D037275 Beck v. County of Orange

The judgment is affirmed. County is awarded costs on appeal. Haller, J.,
We Concur: Nares, Acting P.J., McIntyre, J.

D035785 Knight & Carver Yachtcenter, Inc. v. Wells Fargo Guard Services

Judgment reversed. Knight to recover costs on appeal. Haller, J.; We Concur: Nares, Acting P.J.,
McIntyre, J.

COURT OF APPEAL OF STATE OF CALIFORNIA
FOURTH APPELLATE DISTRICT
DIVISION ONE

July 25, 2001

D037038 People v. Katz

Judgment affirmed. Kremer, P.J.; We Concur: Huffman, J., O'Rourke, J.

D037438 People v. Marino

The judgment is affirmed. Huffman, Acting P.J.; We Concur: Nares, J., Haller, J.

D035089 People v. Mayer

The judgment is affirmed. O'Rourke, J.; We Concur: Nares, Acting P.J., Haller, J.

D038164 Ignacio R. v. Superior Court of San Diego County/People

For good cause shown in Superior Court of San Diego County is ordered to show cause why the relief requested should not be granted. Absent objection on or before August 1, 2001, the informal response will be deemed the response to the order to show cause. Petitioner may file a reply on or before August 8, 2001. Oral Argument will be deemed waived unless requested on or before August 13, 2001. All proceedings in the trial court are stayed pending further order of this court.

D038381 Vulcan Materials Company v. Superior Court of San Diego County/Germann

The petition is denied.

D037052 People v. Cain

The judgment is affirmed. Kremer, P.J.; We Concur: Huffman, J., O'Rourke, J.

D034832 People v. Carey

The convictions and findings are affirmed. The sentence is reversed and the matter is remanded for resentencing consistent with the views expressed in this opinion. Huffman, J.; We Concur: Benke, Acting P.J., Nares, J.

D036831 Mullikan v. JR Enterprises

The judgment is affirmed. Kremer, P.J.; We Concur: Nares, J., McDonald, J.

D034505 Sinkula v. Farmers Insurance Exchange et al.,

The judgment is affirmed. Kremer, P.J.; We Concur: Haller, J., McIntyre, J.

COURT OF APPEAL OF STATE OF CALIFORNIA
FOURTH APPELLATE DISTRICT
DIVISION ONE

July 26, 2001

D037579 Antonio v. Benfield

Upon written request filed by appellant, the appeal is dismissed and the remittitur is ordered to issue immediately (Cal. Rules of Court, rule 19(b)).

D035522 People v. Matwyuk

The judgment is reversed, and the matter is remanded to the superior court with directions to enter an order granting the motion to suppress evidence. Huffman, J.; We Concur: Benke, Acting P.J., Nares, J.

D036079 People v. Jacquett

Judgment affirmed. Haller, J.; We Concur: Kremer, P.J., Huffman, J.

D038365 In re Divac on Habeas Corpus

The petition is denied.

D037444 In re Zachary B. et al., Juveniles

The judgment is affirmed. McIntyre, J.; We Concur: Kremer, P.J., McDonald, J.

D034617 People v. Huddleston

The convictions on counts three through six, eight and nine are reversed. In all other respects, the judgment is affirmed. McDonald, J.; We Concur: Haller, Acting P.J., O'Rourke, J.

D035978 People v. McCann

The judgment is affirmed. Haller, J.; We Concur: Kremer, P.J., Nares, J.

D036128 Reaume v. Coulam

The judgment is affirmed. Nares, J.; We Concur: Benke, Acting P.J., Huffman, J.

D036198 People v. Montgomery

The judgment is affirmed. Huffman, Acting P.J.; We Concur: Haller, J., O'Rourke, J.

D038285 In re Anderson on Habeas Corpus

The petition is denied.

D037967 In re Coleman on Habeas Corpus

The petition is denied.

D038258 In re Zelaya on Habeas Corpus

The petition is denied.

COURT OF APPEAL OF STATE OF CALIFORNIA
FOURTH APPELLATE DISTRICT
DIVISION ONE

July 26, 2001 (Continued)

D038358 Rivers v. Superior Court of San Diego County/People

The petition is denied.

**D038171 Nadia B. v. Superior Court of San Diego County/San Diego County Health and
Human Services Agency**

The attorney for petitioner Victor S. has notified the court on behalf of the petitioner that a Petition for Writ of Mandate under Rule 39.1B will not be filed as there are no viable issues for writ review. The case as to Victor S. is dismissed.

COURT OF APPEAL OF STATE OF CALIFORNIA
FOURTH APPELLATE DISTRICT
DIVISION ONE

July 27, 2001

D035265 People v. Gordon

Gordon's conviction for possession of burglar's tools in count 2 is reversed. The judgment is affirmed in all other respects. CERTIFIED FOR PARTIAL PUBLICATION. McIntyre, J.; We Concur: Kremer, P.J., Haller, J.

D037544 Doesburg et al. v. City of San Clemente

The judgment is reversed. The matter is remanded with directions for the superior court to enter judgment in favor of the City, which is also entitled to recover its costs of appeal. McIntyre, J.; We Concur: Kremer, P.J., Haller, J.

D037749 In re Bonner on Habeas Corpus

The petition is denied.

D036999 Turner v. W&K Investors VIII et al.

The judgment is affirmed. The W&K defendants are awarded costs on appeal. McIntyre, J.; We Concur: Huffman, Acting P.J., Nares, J.

D035537 National Steel & Shipbuilding Company v. California Unemployment Insurance Appeals Board/Acosta et al.

The request for publication of the opinion is denied.

D036393 People v. Duckett

The judgment is affirmed. Kremer, P.J.; I Concur: Benke, J., I Dissent (by opinion): McDonald, J.

D036623 People v. Rodriguez

Judgment affirmed. Kremer, P.J.; We Concur: Huffman, J., O'Rourke, J.

D035940 People v. Valdez

Judgment affirmed. Kremer, P.J.; We Concur: Huffman, J., O'Rourke, J.

D038315 In re Kovacs on Habeas Corpus

The petition is denied.

D038287 In re Chaker on Habeas Corpus

The petition is denied.

D036562 People v. Poscablo

Judgment affirmed. Huffman, J.; We Concur: Kremer, P.J., O'Rourke, J.

D035851 People v. Roston

The judgment is affirmed. O'Rourke, J.; We Concur: Kremer, P.J., Huffman, J.

COURT OF APPEAL OF STATE OF CALIFORNIA
FOURTH APPELLATE DISTRICT
DIVISION ONE

July 27, 2001 (Continued)

D036956 People v. Miller

Judgment affirmed. Kremer, P.J.; We Concur: Huffman, J., O'Rourke, J.

D037046 People v. Milton

Judgment affirmed. Huffman, J.; We Concur: Kremer, P.J., O'Rourke, J.

D035256 Passalacqua v. Marengo et al.

The February 14, 2000 order denying Passalacqua's motion for attorney fees as costs of proof under section 2033, subdivision (o) is reversed and the matter remanded for the trial court to determine an appropriate award of attorney fees incurred from September 28, 1999. The February 24, 2000 order is affirmed.

Marengo shall bear Passalacqua's costs on appeal relating to the February 14, 2000 order, and Passalacqua shall bear Martin's and Hale's costs on appeal. McIntyre, J.; We Concur: Kremer, P.J., Haller, J.

D036688 People v. Thompson

The judgment is affirmed. O'Rourke, J.; We Concur: Kremer, P.J., Huffman, J.